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BANGALORE, THURSDAY, NOVEMBER 17, 1910.

PART III.

Legislative Measures and Rules thereunder.

NOTIFICATIONS.

No. 149—*L. C., dated* 11*th November* 1910.

A meeting of the Mysore Legislative Council will be held in the Public Office Buildings, Bangalore, on Tuesday the 22nd November 1910, at 12 noon.

No. 150—*L. C., dated* 15*th November* 1910.

Under Rule 40 of the Rules for the conduct of business of the Mysore Legislative Council, the following report of the Select Committee on the Bill to consolidate and amend the law relating to Courts of Small Causes in Mysore is published for general information with the Bill as amended by the Committee.

By Order,
S. HIRIYANNAIYA,
Secretary, Mysore Legislative Council.

Report of the Select Committee on the Bill to consolidate and amend the law relating to Courts of Small Causes in Mysore.

We, the members of the Select Committee appointed for the consideration of the above Bill, beg to submit the following report to the Council:—

The Bill as framed takes the Courts of Small Causes outside the purview of the Mysore Civil Courts Regulation. A Small Cause Court is a Civil Court as much as the Court of the Munsiff, the Court of the Subordinate Judge or a District Court; and we do not see any valid reason why the former should be excepted from the operation of the Civil Courts Regulation in so far as it may be applicable.

Having given our careful consideration to the matter, we are unanimously of opinion that it is desirable that Small Cause Courts should also be brought under "Civil Courts" as defined in that Regulation. With this view we have struck out clauses 4 to 9 and 18 to 22 of the Bill as the provisions contained in them are to be found in the Civil Courts Regulation and we recommend that the latter Regulation be amended as detailed below, so that its provisions may apply to Small Cause Courts also. The course we have adopted has, we conceive, much to recommend it, *viz.*, that there will be one consolidated Regulation to provide for the constitution and establishment of all the Civil Courts in the State except the Chief Court and that a good deal of unnecessary repetition in the Bill of the provisions already contained in the Civil Courts Regulation will be obviated. The Bill will consequently be considerably reduced in bulk, consisting as it will be only of 13 sections, and will provide only for such matters as are peculiar to a Small Cause Court. With this explanation of the main changes made by us in the Bill, we proceed to describe below in brief the other changes proposed by us.

Clause 2.—The Chief Court having held in a certain case that the Mofussil Small Cause Courts Regulation, XI of 1865, is yet in force in the State, it seems to us to be necessary to formally repeal that Act as applied to Mysore by Notification of the Government of India in the Foreign Department No. 31—I-J., dated 28th January 1880.

Clause 3 (b).—This provision is unnecessary as there is no law in force in the State under which a Magistrate can exercise jurisdiction with respect to debts or other claims of a Civil nature.

Clause 10.—To make it clear that suits in which relief in respect of immovable property is claimed are not within the cognizance of Small Cause Courts, we have added the words "in which no relief is claimed in respect of immovable property and" after the word "Schedule" in this clause.

Clause 12.—This has been omitted by us as due provision has been made therefor in the Code of Civil Procedure.

Clauses 14 A & 14 B of the Bill.—We have carefully considered the provisions contained in the new clauses, 14 A and 14 B, of the Bill, and are of opinion that they are worthy of adoption, as they are calculated to give greater finality to decisions of Small Cause Courts and inspire greater confidence in the minds of the public in decisions by those Courts on questions of fact. A few minor changes have been made by us in these clauses.

14 A.—The expression "subject to such orders as to costs as the Court may in each case think fit" has been inserted after the words "nonsuit the plaintiff."

14 B.—According to the Bill, only suits exceeding Rs. 100 in value could be tried by a composite Court. This we consider to be too high a limit, as such a provision would apply only to suits triable by the Subordinate Judge of Bangalore, the limit of Small Cause jurisdiction in other places being Rs. 100 in Shimoga and Mysore and Rs. 50 in places where there is only a Munsiff. We have therefore reduced the limit fixed in this clause to Rs. 50. We have added a new para directing that the rules framed by the Chief Court under this clause should receive the previous sanction of Government.

We have also added a sub-clause to clause 1 of the Bill directing that the provisions of clause 14 B shall come into force only in such Courts and from such dates as may be notified by the Government in the official Gazette.

Clause 16.—This clause, as it stands, is taken from the Provincial Small Cause Courts Act of 1887 and is wider in its scope than the corresponding section of the Civil Procedure Code. We agree with the opinions expressed by the late Chief Judges, Messrs. Ramachandra Iyer and Staley that the power of revision vested in the Chief Court in respect of decisions by Small Cause Courts should be ampler than in British India, and with this object we have recast this clause on the model of Section 217 of the Mysore Land Revenue Code.

Clause 24.—We have shortened this clause and added it as a proviso to clause 23.

Schedule.—We are of opinion that a positive enumeration of the classes of suits cognizable by a Small Cause Court is on the whole a far better mode of fixing its jurisdiction than the negative method of excluding certain suits which is adopted

in the Small Cause Courts Act of British India. We therefore recommend that the schedule as framed in the Bill be adopted by the Council with the few slight alterations noted below :—

Articles 4 and 5.—To make it clear that only suits for money are intended in these enumerations, we have added the words "for money" after "suit" in both these articles.

Article 7.—In the interests of clearness, we have substituted "or" for "and" in the expression "boarding and lodging."

Article 12.—The condition inserted in this article that the "total deposit should not exceed the pecuniary jurisdiction of the Court" is in our opinion unnecessary, as the jurisdiction of the Court has to be determined primarily by what is due at the time of the suit and not by the volume of the transactions that might have taken place before between the parties.

We have added another Schedule showing the changes proposed to be made in the Civil Courts Regulation for reasons set forth in the opening portion of our report. Only a few of them call for remarks here.

Section 3 of the Civil Courts Regulation.—The expression "the Court of Small Causes" has been inserted in this section so that a Small Cause Court may be included within the definition of a Civil Court. The insertion of a similar expression in Section 5 provides for the local jurisdiction of a Court of Small Causes.

The new Section 10A directs that the jurisdiction of a Court of Small Causes in respect of suits triable by it shall be regulated by the law relating to Courts of Small Causes for the time being in force. Appropriate changes have been made in Sections 19 and 21 in respect of the suspension or removal of judges of Civil Courts, and appointments, etc., of ministerial officers of such Courts. The Civil Courts Regulation as thus amended will provide for all the matters contained in clauses 4 to 9 and 18 to 22 of the Bill.

We recommend that the Bill as now amended by us be adopted by the Council with the changes proposed in the Civil Courts Regulation.

H. V. NANJUNDAYYA.
A. RANGASWAMI IYENGAR.
S. NARAYANA RAO.
C. SRINIVASIENGAR.
M. C. RANGIENGAR.
D. VENKATRAMAYYA.

14*th November* 1910.

I agree to the report subject to the following remarks:—

The condition imposed in clause 12 of the schedule that the total deposit should not exceed the pecuniary jurisdiction of the Small Cause Court is in my opinion quite necessary.

The suggestion for the omission of the condition on the score that the jurisdiction has to be determined primarily by what is due at the time of the suit and not by the volume of the transactions that might have taken place between the parties would virtually enable the Small Cause Courts to adjudicate and record findings upon various disputed items of deposits, each of which may be beyond the jurisdiction of the Small Cause Court, though the sum-total remaining due at the time of the suit after withdrawal of portions of deposits may be within the jurisdiction of the Court. Hence the provision may remain as it stands.

2. I may also be permitted to remark that notwithstanding the desirable provision as to composite Courts based on the County Courts Act, in this country Rs. 500 would be a fortune to many persons and the maximum limit of the jurisdiction of the Small Cause Courts may, therefore, be reduced to Rs. 300.

A. RAMANNA,
Member, Mysore Legislative Council.